

IN THE CIRCUIT COURT OF MINGO COUNTY, WEST VIRGINIA

**JENNIFER L. SPENCE, individually and as
mother, legal guardian and next friend of
LAWRENCE TYLER SPENCE, an infant,
PLAINTIFFS,**

CLERK OF COURT RECORDS
17 MAY 30 PM 2 32

vs.

CIVIL ACTION NO.: 12-C-154
MINGO COUNTY
CIRCUIT CLERK

**THE BOARD OF EDUCATION OF
THE COUNTY OF MINGO, a corporation,
DEFENDANT.**

COMPLAINT

Comes now the Plaintiffs, Jennifer L. Spence, individually and as mother, legal guardian and next friend of Lawrence Tyler Spence, an infant, by and through counsel, Greg K. Smith, of the Law Office of Greg K. Smith, and for her COMPLAINT states and alleges as follows, to-wit:

1. That the Plaintiff, Jennifer L. Spence, the mother, legal guardian and next friend of the infant, Lawrence Tyler Spence, and further is a citizen and resident of Mingo County, West Virginia, with a mailing address of P.O. Box 511, Varney, West Virginia, 25696.
2. That the Plaintiff, Lawrence Tyler Spence, is an infant under the age of 18 years and is a citizen and resident of Mingo County, West Virginia, with a mailing address of P.O. Box 511, Varney, West Virginia, 25696.
3. That the Defendant, the Board of Education of the County of Mingo (hereinafter "Board of Education"), is a West Virginia corporation authorized and created pursuant to W.V. Code 18-5-5, with a mailing address of Route 2 Box 310, Williamson, West Virginia 25661.
4. That at all times herein, the Board of Education, among other things, controlled and managed the public school system in Mingo County, West Virginia, and its employees, including principles and teachers.
5. That at all times relevant herein, the Board of Education managed and operated Burch Elementary School in Delbarton, Mingo County, West Virginia.
6. That at all relevant times herein, Lawrence Tyler Spence was a student duly enrolled at Burch Elementary School.

7. That at all relevant times herein, the principals, teachers and other employees at Burch Elementary School were agents, servants and employees of the Board of Education.
8. That on or about October 7, 2011, Lawrence Tyler Spence, during the course of his day at Burch Elementary School, was taken or sent to the playground with the rest of his classmates.
9. That while on the playground, Lawrence Tyler Spence mingled with the rest of his classmates.
10. That while on the playground, Lawrence Tyler Spence was negligently permitted on certain playground equipment that was inherently dangerous, improperly installed, negligently maintained, and not age appropriate for said infant.
11. That as a direct and proximate result of the negligence of the Defendant, Lawrence Tyler Spence sustained a fracture of his right wrist.
12. That on or about October 7, 2011, the Board of Education and its employees and agents were negligent by carelessly, recklessly and negligently:
 - (a) failing to supervise its employees and students;
 - (b) failing to provide reasonable and adequate supervision;
 - (c) failing to safeguard Lawrence Tyler Spence from inherently dangerous playground equipment;
 - (d) failing to undertake reasonable precautions to avoid the injuries sustained by Lawrence Tyler Spence;
 - (e) failing to provide reasonable medical attention; and
 - (f) failing to otherwise act or comply within the pertinent standard of care required of the Defendant and its employees.
13. That as a proximate result of the negligence of the Board of Education, Lawrence Tyler Spence has sustained grievous bodily injury resulting in great pain and suffering.
14. That as a proximate result of the negligence of the Board of Education, Lawrence Tyler Spence has incurred and will incur future medical bills for treatment of his injuries.

15. That as a proximate result of the negligence of the Board of Education, Lawrence Tyler Spence has endured and will endure pain and suffering, embarrassment and emotional trauma and distress.
16. That as a proximate result of the negligence of the Board of Education, Lawrence Tyler Spence has suffered permanent disfigurement and scarring.
17. That as a proximate result of the negligence of the Board of Education, Lawrence Tyler Spence has suffered a diminution of his ability to earn money and enjoy life.
18. That as a proximate result of the negligence of the Board of Education, Lawrence Tyler Spence has incurred various and sundry other consequential expenses, losses and damages.

WHEREFORE, the Plaintiffs, Jennifer L. Spence, individually and as mother, legal guardian and next friend of Lawrence Tyler Spence, an infant, by and through counsel, Greg K. Smith, of the Law Office of Greg K. Smith, demand judgment as follows, to-wit:

1. That the Complaint be filed and Summons be issued thereon;
2. For compensatory damages suffered by the Plaintiffs in an amount in excess of the minimum amount necessary to establish the jurisdiction of this Court, and the Plaintiffs reserve the right to advise the trier of fact of the amount of such damages;
3. For trial by jury;
4. For cost and attorney fees herein expended;
5. For prejudgment and post judgment interests; and
6. For all other proper Orders and relief to which the Plaintiffs might be entitled.

**JENNIFER L. SPENCE, individually and as
mother, legal guardian and next friend of
LAWRENCE TYLER SPENCE an infant,
PLAINTIFFS,**

BY: 

OF COUNSEL

GREG K. SMITH, ESQ. (ID NO.: 7229)
MATTHEW E. CHANDLER, ESQ. (ID NO.: 11055)
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VERIFICATION

STATE OF WV

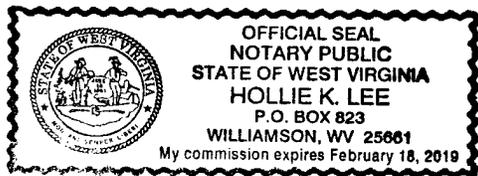
COUNTY OF Mingo

This day personally appeared before me, the undersigned authority, Jennifer L. Spence, who after being by me first duly sworn, upon oath, says that the facts and allegations contained in the foregoing _____
Complaint _____, are true, except where they are so stated to be upon information and belief, and where they are therein so stated to be upon information an belief, believes them to be true.

Jennifer L. Spence
AFFIANT

Taken subscribed and sworn to before me this 22 day of May, 2012.

My Commission expires: February 18, 2019.



Hollie K. Lee
NOTARY PUBLIC